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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,777	09/19/2001	James R. Geary	1632A1	9740

7590 10/15/2004

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EXAMINER

VO. HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/955,777

Applicant(s)

GEARY ET AL.

Examiner

Hai Vo

Art Unit

1771

*[Handwritten signature]*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4, 7-13, 15-25, 29-39 and 41-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 and 52 is/are allowed.
- 6) ☒ Claim(s) 4, 7-13, 15-21, 23-25, 29-39, 41-49, 51 and 53 is/are rejected.
- 7) ☒ Claim(s) 50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. All of the art rejections are withdrawn in view of the present amendment and response. However, upon further consideration, a new ground(s) of rejection is made in view of the 112 claim rejections, first paragraph.
2. The indicated allowability of claims 4 and 22 is withdrawn in view of the 112 claim rejections, first paragraph.
3. Claim objections are withdrawn in view of the present amendment.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4, 7-13, 15-21, 23-25, 29-39, 41-49, 51 and 53 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In this case, support for a layer of a compressible resilient material secured to the inner surface of the member at the vertex and extending from the vertex toward end of the first leg and from the vertex toward end of the second leg is not found in Applicant's specification. Nothing in the specification and the drawings as well show that the ends of the inner layer and the outer layer of the laminated substantially L-shaped packing restraint are not aligned with one to another

***Allowable Subject Matter***

6. Claim 50 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
7. Claims 22 and 52 are allowed for the reasons set forth below.
8. The art rejections over Millar, Jr. (US 4,812,093) have been overcome by the present amendment and response. Millar teaches a stake pocket tie-down anchor comprising an L-shaped member made of steel, which is absolutely not defined as a plastic member as required by the claims. Further, Millar teaches the stake pocket tie-down anchor having an L-shaped member made of steel, a foam rubber 30 secured to the L-shaped member and a tie-down connection 20 provided onto the foam rubber 30 while the claims require a packaging restraint comprising a L-shaped plastic member, a compressible resilient material secured to the inner surface of the plastic member and an attachment provided on the outer surface of the plastic member. Likewise, Millar fails to teach or suggest the foam rubber and the tie-down connection are provided on opposite sides of the L-shaped member.
9. The art rejections over Moehring (US 3,938,660) in view of several cited references have been overcome by the present amendment and response. Moehring teaches a composite packing comprising an L-shaped plastic member 50, a tubular runner 51 extending along the plastic member. The L-shaped plastic member is provided with raised portions 52, 53, which correspond to Applicant's attachment member. Likewise, it is clearly apparent that Moehring fails to teach

or suggest the tubular runner and the attachment member being provided on opposite sides of the L-shaped plastic member, which is required by the claims.

It is noted that it would not have been obvious to alter the order of the individual layers in Millar's stake pocket tie-down anchor or Moehring's composite packing to arrive at the structure of the presently claimed packing restraint because to do so would destroy the properties necessary for the intended utility.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485. The examiner can normally be reached on M,T,Th, F, 7:00-4:30 and on alternating Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HV

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